IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.117 OF 2004

IN

WRIT PETITION NO.3051 OF 1991

Shri S.V.Padhye, since deceased
through his LR & representatives:
Smt.Sudha Savlaram Padhye ...Petitioner

Versus

Om Jai Shri Gurukrupa Co-op.
Housing Society Ltd. & Anr. ...Respondents

.....

Mr.Y.M.Chaudhari for Petitioner.

Mr.C.P.Deogirikar for Respondents.

.....

CORAM: A.M.KHANWILKAR, J.

DECEMBER 8, 2004.

P.C.

1. Heard Counsel for the parties.

2. One of the ground pressed into service for recall of my order dated 20th July 2004 is that on

that day, the Advocate on record failed to appear before the Court when the matter was called out. Now, affidavit of concerned Advocate, sworn on 7th December 2004 is placed on record, which asserts that on 20th July 2004, he was not well and had to leave the Court at 2.00 p.m. It is, however, not in dispute that no efforts were made by the Advocate to either inform the Counsel for the other side or seek leave from the Court and short adjournment on the ground of personal difficulty. The approach of the Advocate is obviously very casual in this case. That cannot be countenanced. It is well known to all concerned that all final hearing old matters are taken up for hearing in the second session in our Court. For the reasons best known to the Advocate, no efforts were made to ensure that the matter is adjourned before leaving the Court premises. This Court had to spend quite some time in hearing the case, including delivering the Judgment. This Court is now required to show indulgence to the litigant, because the litigant cannot be made to suffer because of the fault of the Advocate. In such a situation, to my mind, the concerned Advocate, who has failed to show minimum

courtesy to Court, should be required to pay cost personally to the other side, so that, such mistakes will not be repeated in future. Accordingly, this Application is allowed in terms of prayer clause (a) on condition that the Advocate Yadunath M.Choudhari shall personally pay cost to the Petitioner society quantified at Rs.3,000/- (Rupees Three Thousand). That be paid on or before 13th December 2004, failing which, appropriate proceedings may be initiated.

A.M.KHANWILKAR, J.